IN THE HIGH COURT OF JUDICATURE AT BOMBAY

O.O.C.J.
APPEAL NO.804 OF 2006
IN
NOTICE OF MOTION NO.3820 OF 2006
IN
SUIT NO.3151 OF 2006

M/s. Shah & Jhaveri Developers .. Appellant
v/s.
M/s. Classic Developers Pvt.Ltd. and another .. Respondents

Mr. D.D. Madon, senior counsel with Ms. Aruna Mehta and Mr. D.N. Thakkar i/by M/s. S. Pathak & Co. for the appellant.

Mr. A.Y. Bookwala i/by Mr. Y.R. Shah for the respondent No.1.

Mr. S.H. Doctor with Mr. R.S. Jaisinghani i/by Ms. Jacinta D'Silva for the respondent No.2.

CORAM : R.M.LODHA &
S.A.BOBDE, JJ.

DATED : 15TH NOVEMBER, 2006.

P.C.

Having heard Mr. D.D. Madon, the senior counsel for the appellant and upon perusal of the impugned order, we are satisfied that the impugned order refusing the plaintiff-appellant the ad-interim relief does not call for any interference. It is not in dispute that the agreement of which the plaintiff has sought specific performance is the development agreement. Prima facie, such agreement is not capable of specific performance.

2. Since the appeal is from the ad-interim order, we do not intend to deal with the matter at length lest it must prejudice the consideration of the notice of motion on merit by the learned motion Judge.

3. We request the learned motion Judge to hear and decide the notice of motion expeditiously uninfluenced by the impugned order or the order that has been passed by us today.

(R.M.LODHA, J.)

(S.A.BOBDE, J.)